

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 11, 12, 26, 27, and 34 have been amended.

No claims have been added or cancelled in this response.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1, 11, 12, 15, 17, 20, 21, 25 – 28, 31, 33, 34 and 37 – 39 are pending in this application. Applicants acknowledge the fact that the Examiner has allowed claims 15, 17, 20, 21, 25, 28 and 31. Applicants also acknowledge the fact that the Examiner considers claims 11 and 12 allowable if they were rewritten in independent form.

A. Rejection of claim 1, 33, 34, and 37 – 39 under 35 U.S.C. § 112, first paragraph

On page 3, of the Office Action the Examiner has rejected claims 1, 33, 34, and 37 – 39 under 35 U.S.C. § 112, first paragraph.

As an initial matter, Applicants do not understand why the Examiner has rejected claims 33, 34, and 37 – 39 in this Office Action. After all, the Examiner states that Applicants' amendments and arguments were sufficient to overcome the 35 U.S.C. § 112, first paragraph rejections 9a), d), e), and f) set forth in the previous Office Action, all of which pertain to claims 33, 34 and 37 – 39. Thus, Applicants believe that the Examiner meant to reject only claim 1 under 35 U.S.C. § 112, first paragraph. Clarification is respectfully requested.

While not acquiescing to the Examiner's rejection of claims 1, 33, 34, and 37 – 39 under 35 U.S.C. § 112, first paragraph, and simply in an effort to expedite the prosecution of this application Applicants have (a) deleted the variable –OX₇ from the definition of R₃, R₄,

R₅, R₆, R₇, R₈ and R₉ in claim 1, and (b) deleted the limitation in claim 1 that recites that the ring containing Z' may be optionally substituted with one, two or three alkyl, halogen, trihalomethyl, carboxylate, and ester moieties. Applicants believe that these deletions overcome the rejections set forth under items 5b) and 5c) of the present Office Action. Reconsideration and withdrawal of this rejection are therefore respectfully requested.

B. Rejection of claims 26, 27, 33, 34 and 37 – 39 under 35 U.S.C. § 112, Second Paragraph

On pages 4 and 5 of the Office Action the Examiner has rejected claims 26, 27, 33, 34 and 37 – 39 under 35 U.S.C. § 112, second paragraph.

This rejection has been rendered moot in light of the deletion of the group R₁₀ in the proviso under section (v)(a) of claim 26 and section (e)(i) of claim 27. Reconsideration and withdrawal of this rejection are respectfully requested.

C. Claim Objections

On page 5 of the Office Action, the Examiner has objected to claims 11 and 12 as depending from a rejected base claim. The Examiner states that claims 11 and 12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants have amended claims 11 and 12 such that they recite all of the limitations of claim 1—there are no intervening claims. Consequently, claims 11 and 12 should now be allowable. Reconsideration and withdrawal of this rejection are respectfully requested.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended are respectfully requested.

Examiner Coleman is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a

check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

7 July 2004

By



FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5143
Telephone: (202) 672-5475
Facsimile: (202) 672-5399

Beth A. Burrous
Attorney for Applicant
Registration No. 35,087